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10/644,643

08/20/2003

Jian Wang

02-40181-US

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01/05/2006

REED SMITH, LLP

ATTN: PATENT RECORDS DEPARTMENT
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EXAMINER

BOUTSIKARIS, LEONIDAS

ART UNIT

PAPER NUMBER

2872

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 10/644,643 | Applicant(s) WANG ET AL. | |
| | Examiner Leo Boutsikaris | Art Unit 2872 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 22, 33, 39 recite “less than about a microwave wavelength”, which is indefinite. Microwave wavelengths go from roughly 30 cm to 1 mm. It is suggested that the claim language is amended to specify the range of microwave wavelengths.

Claims 2-21, 23-32, 34-38 inherit the deficiency of claims 1, 22, 33, 39 from which they depend.

Claims 8, 25, 34 recite “a second index of refraction non-equivalent to the first index of refraction”, which is not clear. It is suggested that the term “non-equivalent” is changed to “different from”, for better clarity.

Claim 16 recites “each nanostructure...comprises a width in a range of about 30 nm”. It is not clear whether the above refers to the width of the whole nanostructure or the width of each element of the nanostructure. In addition, the term “a range of about 30 nm” is indefinite, and it is not clear whether it means the width is approximately 30 nm or it can vary within a range of 30 nm.

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Claim 18 recites that the nanostructures comprise 180 degrees of effective polarization separation in a space of less than about 0.2 mm. The above is indefinite and the examiner cannot ascertain the meaning of the above phrase. For examination purposes, it will be taken to mean that the polarizer produces a high extinction ratio with a device, which is less than 0.2 mm thick.

Claim 19 recites "said nanostructures comprise an acceptance angle", which is not clear. For examination purposes, it will be taken that the above means "angle of incidence"

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 5-9, 11-12, 14-15, 18, 20-22, 25-27, 29-30 are rejected under 35

U.S.C. 102(e) as being anticipated by Silverstein (US 6,844,971).

Regarding claims 1, 21-22, Silverstein discloses a grid polarizer (Fig. 5) for polarizing incident light and therefore maximizing the transmission of one polarized component (e.g., p, see Fig. 6a) (while minimizing the reflection of said component) and at the same time maximizing the reflection of the orthogonal polarized component, i.e., s (while minimizing the transmission of said component), see also lines 14-18, col. 16. The grid polarizer comprises a substrate 405, two nanostructures 430, one each on each side of the substrate, and each having feature sizes on the nm order, and two groove layers 440 and 442, each one interstitial to a respective

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nanostructure (lines 19-38, col. 11). Furthermore, in one embodiment, Silverstein discloses that a dielectric layer 580 may be formed between the substrate 505 and the groove layer 540 (lines 53-63, col. 16, Fig. 8d). Finally, Silverstein teaches that an AR coating may be also included in the structure to broaden the wavelength spectrum and improve the efficiency and transmitted contrast (i.e., the extinction ratio) of the polarizer device (lines 45-57, col. 11). It is noted that the above device is used with visible light, which lies within the claimed wavelength range.

Regarding claim 2, the groove layers comprise grooves (lines 23-25, col. 11).

Regarding claim 5, the nanostructures are metallic (line 28, col. 11).

Regarding claim 6, in one embodiment, the nanostructures 530 comprise a plurality of dielectrics e.g., 570, 572, 574 (lines 42-49, col. 16, Fig. 8c).

Regarding claims 7-9, 25-26, the groove layers comprise a dielectric having a lower conductivity than the respective nanostructure, since the groove comprises air and the nanostructure is metallic, said two elements having different refractive indices.

Regarding claim 11, each of the nanostructures comprises a plurality of wires (line 23, col. 11).

Regarding claims 12, 27, the two nanostructures are parallel to each other (lines 29-33, col. 11).

Regarding claims 14, 29, the two nanostructures are separated from each other by spacer layer 405 (Fig. 5).

Regarding claims 15, 30, each nanostructure may be 100 nm or 200 nm thick (lines 1-10, col. 14).

Regarding claim 18, the extinction ratio/contrast is substantially high (see Figs. 7e, 7f) by using a device which is less than 0.2 mm (lines 40-42, col. 17).

Regarding claim 20, each nanostructure comprises a rectangle (see Fig. 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 16-17, 19, 28, 31-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silverstein (US 6,844,971).

Regarding claims 16-17, 19, 31-32, 34-36, 38-39, Silverstein discloses all the limitations of said claims except for specifically teaching that the width of each element in the nanostructures is about 30 nm, or that the transmissivity is greater than about 97%, or that the extinction ratio is greater than about 40 dB, or that the incidence angle is up to about 20 degrees. Instead, Silverstein does teach that the grid width may be about 65 nm (grid pitch being 144 nm and duty cycle being 45%), see lines 48-49, col. 13; the transmissivity may be greater than 80% and the extinction ratio 36 dB (4,000:1), see lines 7-10, col. 16; and the incidence angle may be in a range depicted in Figs. 7a-7d. It would have been obvious to one of ordinary skill in the art at the time the invention was made to design the polarizer stack of Silverstein so that it exhibits the claimed values for the various optical properties, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch,

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617 F.2d 272, 205 USPQ 215 (CCPA 1980). Optimization of said variables would result in an optical polarizer that exhibits a desired performance, e.g., high extinction ratio while at the same time transmitting most of the incident light.

Regarding claims 13, 28, 33, Silverstein discloses all the limitations of said claims except for teaching that an etch stop layer is included in the polarizer stack. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include an etch stop layer during the fabrication of the polarizer stack of Silverstein, since Official Notice is taken that the use of etch stop layers during photolithographic micro-patterning is widely known in the micro-optics field, because such protective layers allow for more accurate micro-patterning using various etching techniques.

Claims 3-4, 10, 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silverstein (US 6,844,971) in view of Imaizumi (US 2003/0007251).

Regarding claims 3-4, 23-24, Silverstein discloses all the limitations of said claims except for teaching a pair of protective layers covering both ends of the polarizer device. Imaizumi discloses a polarizer device comprising a first and a second nanostructure 3a, 3b, and a first and a second groove layer 2a, 2b, each groove layer being interstitial to a respective nanostructure (Fig. 5, [0035]). A protective layer 5 is formed on top and beneath said nanostructures, groove layers and substrate 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to cover the polarizer device of Silverstein with a protective layer on each top and bottom surface for improving the light-transmissivity and polarization of the device by suppressing reflective scattering (see [0042] in Imaizumi).

Regarding claim 10, Silverstein discloses all the limitations of said claim except for teaching that a dielectric material is interstitial to each nanostructure, instead of air. As described above, in Imaizumi's polarizer device dielectric material 2a, 2b is formed between the nanostructure elements 3a, 3b. It would have been obvious to one of ordinary skill in the art at the time the invention was made to fill the grooves in Silverstein's polarizer with a dielectric material other than air, as taught by Imaizumi, for better flexibility in designing the polarizing function of the polarizing stack to exhibit a designed polarization extinction ratio and overall transmission efficiency. By choosing dielectric materials having different refractive indices one skilled in the art can design a polarizer by using an additional parameter (i.e., the relative difference in the refractive indices of the materials comprising the grooves and the nanostructures) in addition to parameters such as the relative thicknesses, widths, etc.

Response to Applicant's Arguments

Applicant's arguments with respect to claims 1-39 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Leo Boutsikaris whose telephone number is 571-272-2308.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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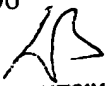
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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Leo Boutsikaris, Ph.D., J.D.

Primary Patent Examiner, AU 2872

January 2, 2006


LEONIDAS BOUTSIKARIS
PRIMARY EXAMINER